

specified in this paragraph whether or not the State has theretofore been designated, upon the Secretary determining that it is not effectively enforcing requirements at least equal to those imposed under said sections.

(4) The Secretary shall promptly upon August 18, 1968, and periodically thereafter, but at least annually, review the requirements, including the enforcement thereof, of the several States not designated under this paragraph (c), with respect to the slaughter, and the processing, storage, handling, and distribution of poultry products, and inspection of such operations, and annually report thereon to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate in the report required in section 470<sup>1</sup> of this title.

**(d) "State" defined**

As used in this section, the term "State" means any State (including the Commonwealth of Puerto Rico) or organized territory.

(Pub. L. 85-172, § 5, Aug. 28, 1957, 71 Stat. 443; Pub. L. 90-492, § 5, Aug. 18, 1968, 82 Stat. 796; Pub. L. 98-487, § 2, Oct. 17, 1984, 98 Stat. 2264; Pub. L. 103-437, § 8(1), Nov. 2, 1994, 108 Stat. 4588.)

REFERENCES IN TEXT

Section 470 of this title, referred to in subsec. (c)(4), was omitted from the Code.

CODIFICATION

In par. (c)(1), (4), "August 18, 1968" substituted for "enactment of the Wholesome Poultry Products Act".

AMENDMENTS

1994—Subsec. (c)(4). Pub. L. 103-437 substituted "Agriculture, Nutrition, and Forestry" for "Agriculture and Forestry".

1984—Par. (c)(2). Pub. L. 98-487 inserted provisions relating to operations conducted at a restaurant central kitchen facility.

1968—Pub. L. 90-492 substituted provisions authorizing the Secretary to cooperate with the appropriate state agency in the development and administration of state poultry product inspection programs in those states having mandatory poultry product inspection laws and those states having laws at least equal to the provisions of section 460 of this title, provisions authorizing planning, technical and financial assistance and the appointment of advisory committees, provisions designating the appropriate state agency with which the Secretary may cooperate, provisions authorizing the Secretary to designate states as subject to the regulatory provisions of this chapter when the requirements of the specified section have not been complied with or when the specified intrastate activities are present, provisions exempting from the requirements of this chapter operations of the types traditionally and usually conducted at retail stores and restaurants, provisions authorizing the Secretary to terminate the aforementioned designation of states as subject to the regulatory provisions of this chapter, and provisions authorizing the Secretary to review the operations in nondesignated states and make an annual report thereon, for provisions authorizing the Secretary, upon application by any appropriate state or local official or agency or by any appropriate local poultry industry group and after public hearing, to designate major consuming areas as subject to the regulatory provisions of this chapter where the Secretary finds that poultry or poultry products are handled or consumed in such vol-

ume as to affect, burden or obstruct the movement of inspected poultry products in interstate commerce.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

**§ 455. Inspection in official establishments**

**(a) Ante mortem inspection**

For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any poultry product which is capable of use as human food and is adulterated, the Secretary shall, where and to the extent considered by him necessary, cause to be made by inspectors ante mortem inspection of poultry in each official establishment processing poultry or poultry products for commerce or otherwise subject to inspection under this chapter.

**(b) Post mortem inspection; quarantine, segregation, and reinspection**

The Secretary, whenever processing operations are being conducted, shall cause to be made by inspectors post mortem inspection of the carcass of each bird processed, and at any time such quarantine, segregation, and reinspection as he deems necessary of poultry and poultry products capable of use as human food in each official establishment processing such poultry or poultry products for commerce or otherwise subject to inspection under this chapter.

**(c) Condemnation; appeal; reprocessing**

All poultry carcasses and parts thereof and other poultry products found to be adulterated shall be condemned and shall, if no appeal be taken from such determination of condemnation, be destroyed for human food purposes under the supervision of an inspector: *Provided*, That carcasses, parts, and products, which may by reprocessing be made not adulterated, need not be so condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the carcasses, parts, or products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained the carcasses, parts, and products shall be destroyed for human food purposes under the supervision of an inspector.

(Pub. L. 85-172, § 6, Aug. 28, 1957, 71 Stat. 443; Pub. L. 90-492, § 6, Aug. 18, 1968, 82 Stat. 798.)

AMENDMENTS

1968—Par. (a). Pub. L. 90-492, § 6(a), substituted "of, or the burdening of commerce by, any poultry product which is capable of use as human food and is adulterated," for "or a designated major consuming area of any poultry product which is unwholesome or adulterated," "each official establishment" for "any official establishment", and "otherwise subject to inspection under this chapter" for "in, or for marketing in a designated city or area".

Par. (b). Pub. L. 90-492, § 6(b), substituted "segregation, and reinspection" for "segregation, reinspection",

<sup>1</sup> See References in Text note below.

and “otherwise subject to inspection under this chapter” for “in, or for marketing in a designated city or area”, and inserted “capable of use as human food” after “necessary of poultry and poultry products”.

Par. (c). Pub. L. 90-492, §6(c), inserted “other” before “poultry products”, and substituted “to be adulterated” for “to be unwholesome or adulterated”, “made not adulterated” for “made not unwholesome and not adulterated”, and “to be not adulterated” for “to be not unwholesome and not adulterated”.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

#### APPLICABILITY OF CHAPTER REQUIREMENTS TO BIRDS OF THE ORDER RATITAE

Pub. L. 106-387, §1(a) [title VII, §752], Oct. 28, 2000, 114 Stat. 1549, 1549A-41, provided that: “Effective 180 days after the date of the enactment of this Act [Oct. 28, 2000] and continuing for the remainder of fiscal year 2001 and each subsequent fiscal year, establishments in the United States that slaughter or process birds of the order Ratitae, such as ostriches, emus and rheas, and squab, for distribution in commerce as human food shall be subject to the ante mortem and post mortem inspection, reinspection, and sanitation requirements of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) rather than the voluntary poultry inspection program of the Department of Agriculture under section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622).”

### § 456. Operation of premises, facilities and equipment

#### (a) Sanitary practices

Each official establishment slaughtering poultry or processing poultry products for commerce or otherwise subject to inspection under this chapter shall have such premises, facilities, and equipment, and be operated in accordance with such sanitary practices, as are required by regulations promulgated by the Secretary for the purpose of preventing the entry into or flow or movement in commerce or burdensome effect upon commerce, of poultry products which are adulterated.

#### (b) Refusal of inspection

The Secretary shall refuse to render inspection to any establishment whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

(Pub. L. 85-172, §7, Aug. 28, 1957, 71 Stat. 444; Pub. L. 90-492, §7, Aug. 18, 1968, 82 Stat. 799.)

#### AMENDMENTS

1968—Par. (a). Pub. L. 90-492 substituted “otherwise subject to inspection under this chapter” for “in or for marketing in a designated major consuming area”, “burdensome effect upon commerce” for “in a designated major consuming area”, and “which are adulterated” for “which are unwholesome or adulterated”.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

### § 457. Labeling and container standards

#### (a) Requirements for shipping containers and immediate containers; nonconsumer packaged carcasses

All poultry products inspected at any official establishment under the authority of this chap-

ter and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, on their shipping containers and immediate containers as the Secretary may require, the information required under paragraph (h) of section 453 of this title. In addition, the Secretary whenever he determines such action is practicable and necessary for the protection of the public, may require nonconsumer packaged carcasses at the time they leave the establishment to bear directly thereon in distinctly legible form any information required under such paragraph (h).

#### (b) Labeling requirements; definitions and standards of identity or composition or articles and standards of fill of container; standards consistent with Federal Food, Drug, and Cosmetic Act; consistency between Federal and State standards

The Secretary, whenever he determines such action is necessary for the protection of the public, may prescribe: (1) the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling in marking and labeling any articles or poultry subject to this chapter; (2) definitions and standards of identity or composition or articles subject to this chapter and standards of fill of container for such articles not inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], and there shall be consultation between the Secretary and the Secretary of Health and Human Services prior to the issuance of such standards under either Act relating to articles subject to this chapter to avoid inconsistency in such standards and possible impairment of the coordinated effective administration of this chapter and the Federal Food, Drug, and Cosmetic Act. There shall also be consultation between the Secretary and an appropriate advisory committee provided for in section 454 of this title, prior to the issuance of such standards under this chapter, to avoid, insofar as feasible, inconsistency between Federal and State standards.

#### (c) Use of trade names; false or misleading marking or labeling; misleading form or size of container

No article subject to this chapter shall be sold or offered for sale by any person in commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the Secretary are permitted.

#### (d) Withholding use of false or misleading mark, label, or container size or form; modification; hearing; conclusiveness of determination; appeal

If the Secretary has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this chapter is false or misleading in any particular, he may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as